IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

WP(C).No. 5862 of 2007(W)

PETITIONER:

MR.M. RAMACHANDRAN (PARTNER),
M/S.CHEMIK CHEMICALS, MANNATH LANE,
M.G. ROAD, THRISSUR.

BY ADV. SRI.K.I.SAGEER
SRI.TONY CHACKO

RESPONDENTS:
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1. **INTELLIGENCE INSPECTOR,**
   MATTACHERY SQUAD NO.1,
   MINI CIVIL STAION, ALUVA.

2. **INSPECTING ASSISTNT COMMISSIONER**
   (INTELLIGENCE), DEPARTMENT OF COMMERCIAL TAXES,
   THEVARA, ERNAKULAM.

3. **THE STATE OF KERALA, REPRESENTED BY**
   CHIEF SECRETARY TO GOVERNMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:	**COPY OF KGST (NOW IT IS KVAT) REGISTRATION CERTIFICATE DTD. 02/06/1999.**
EXT.P2:	**COPY OF CST REGISTRATION CERTIFICATE DTD. 02/06/1999.**
EXT.P3:	**COPY OF SPECIFIC AUTHORIZATION CERTIFICATE FROM M/S. BIOMERIEUX INDIA PRIVATE LIMITED FOR DISTRIBUTION OF THE MACHINES DTD. 10TH APRIL 2006.**
EXT.P4:	**COPY OF FINAL PROPOSAL FOR SALE OF SAID MACHINERY FOR AN AGREED PRICE SUPPLIED BY M/S. BIOMERIEUX INDIA PRIVATE LIMITED TO THE PETITIONER AND COMMUNICATION THEREON.**
EXT.P5:	**COPY OF INVOICE OF MACHINERY SUPPLIED BY M/S.BIOMERIEUX INDIA PRIVATE LIMITED TO THE PETITIONER.**
EXT.P6:	**COPY OF THE PROFORMA INVOICE DTD. 14/02/2007.**
EXT.P7:	**COPY OF DELIVERY CHALAN DTD. 14/02/2007.**
EXT.P8:	**COPY OF THE NOTICE IN FORM NO.17A ISSUED BY THE FIRST RESPONDENT.**
EXT.P9:	**COPY OF WRITTEN REPRESENTATION TO 2ND RESPONDENT DTD. 17/02/2007.**

/TRUE COPY/

Kss

K.BALAKRISHNAN NAIR, J.

WP(C).No.5862 of 2007-W

Dated this the 22nd day of February, 2007.

JUDGMENT

The petitioner challenges Ext.P8 notice issued by the first respondent under Section 47 (2) of the Kerala Value Added Tax Act, 2003. The goods in respect of which Ext.P8 notice has been issued are detained along with the vehicle. Certain defects are noticed in Ext.P8 and the consignor has been called upon to give security for an amount of Rs.4,87,500/-. The petitioner attacks the said notice as one issued without any legal justification.

2. The learned Government Pleader, upon instruction, submitted that the goods were sought to be transported without any documents, as contemplated under the K.V.A.T. Act and the Rules framed thereunder. Therefore, the goods along with the vehicle were detained.

3. The Commercial Taxes Officer (Enquiry) having jurisdiction over the matter is directed to pass final orders in the proceedings initiated against the petitioner by issuing Ext.P8 notice, after affording an opportunity of being heard to the petitioner, who claims to be a partner of the consignor, in accordance with law, within six weeks from the date of production of a copy of this judgment. If the

petitioner furnishes security to the satisfaction of the first respondent, the consignment along with the vehicle shall be released to him forthwith.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
MS JUDGE.